



**CANADIAN UNION OF PUBLIC  
EMPLOYEES**

**CUPE Local 3766**

November 18, 2015

On behalf of 550 members, the Canadian Union of Public Employees (CUPE) Local 3766 would like to thank you for this opportunity to allow us to speak to the Committee of Review on November 16<sup>th</sup> and allowing us a one day extension to submit our written response.

CUPE Local 3766 represents 550 members who work for the Regina Public School Board No. # 4. We are 10 month employees, who work from 3 hours a day to 7 hours and 20 minutes per day. Our members include the following classifications: Special Education Assistant, Teacher Associate, Developmental Classroom Assistant, Structured Learning Assistant, Interpreter, Food Service Assistant, Community School Nutrition Coordinator, Food Services Technician, Administrative Assistant, Clerical Assistant, Resource Centre Assistant, Brailist 1 & 2, and Speech Language Assistant. We all work with students, who may or may not have physical and/or behavioral needs.

Our local's journey started with the news that WCB was to return \$141 million of excess surplus to Employers. When we heard that employers were to get the surplus, our local believed that something was damaged in our WCB system. The WCB system was founded on the principals of protection and compensation for workers who were injured on the job. In turn, WCB provides employers with the reassurances that they will not be liable for injuries. The fact that our injured members face many hardships while working through the WCB process, and employers were to receive an excess surplus return was not right.

We noticed in the ***Saskatchewan WCB 2014 Annual Report*** on page 22 the injury rates for our class of Elementary & Secondary Education is higher than the average of all classes for both the % of Workers Injured with Time Loss and the % of Workers Injured. In 2014 the % of Workers Injured with Time Loss of all classes was 2.41 %, compared to the class of Elementary & Secondary Education at 2.79%. Similarly, in 2014 the % of Workers Injured of all classes was 6.99% and compared to the class of Elementary & Secondary Education at 7.30%. These numbers are not surprising as our local has witnessed many members facing preventable workplace safety hazards which unfortunate results in many workplace injuries. If you compare our member's percentages to other classes, the class of Elementary & Secondary Education is too high.

When we were notified that we were able to make a presentation, our locals focus was on the WCB delivery service provided to our members. The member's examples that are provided come from our members using their evidence from their WCB files.

### **Service Delivery**

Members privacy rights are being violated as in many cases as WCB representatives is sharing our members medial information to our employers representative, this violates section 174 "***Employers access to information***" of the ***Workers' Compensation Act, 2013***

WCB will give my employers representative medical reports from our members. For example my employers representative asked our member for her surgeons report, our members said no, my employers representative said, "That's ok, I'll get it from WCB"

The sharing of member's private medical information allows my employer's representative to directly contact our member's medical professionals. In some cases, depending on who the member is, our employers representative has been able to delay some members return to work (RTW) and duty to accommodate (DTA ) for months by misrepresenting employment information to WCB representative and medical professionals. This information includes members job descriptions (members having to restrain students) and how many hours per day our member works (6 hours vs 7 1/3 hours) and how many months our members work in a year (10 months vs 12 months), this is a violation of section 53 "**Duty of employer to co-operate to achieve workers' return to employment**" in the **Workers Compensation Act 2013**

When medical professionals contact WCB, they are often confused as our members will give them documentation to dispute our employer's representative misinformation. Medical professional's frustrations levels increase because WCB representative appear to only listen to our employers representative verbal conversation and not to the facts/documentation from our members. Members have given WCB representatives evidence of job description, hours and month of work and copies of our collective agreement. Again, the end result is that our members RTW/DTA is delayed by months, this is a violation of section 53 "**Duty of employer to co-operate to achieve workers' return to employment**" in the **Workers Compensation Act 2013**

One Members case file from their physio therapist can attest to the fact that the members physio therapist admits to viewing our members entire WCB file on line, the member was not notified of this and did not sign the waver for permission. This violates section 174 "**Employers access to information**" of the **Workers' Compensation Act, 2013**

When WCB representative allow our members private medical information to be shared with our employer representative, this allows our employers representative to ask inappropriate questions to our members. For example our employer's representative has requested the following information from our members: diagnosis, allergies, medication, sleeping patterns. These are intrusive questions which should not be asked by employer's representative

The WCB process is driven by timelines on injury; this violates section 19.1 "**Duties of the Board**" of the **Workers' Compensation Act, 2013**

Members are not car parts and they do not run on time lined warranties, sometimes their injuries take longer to heal. Common comments from WCB representative's to our members are, "this should have healed by now", these comments inadvertently places blame on our members implying that they are doing something wrong to "not" get better. This violates section 19.1 "**Duties of the Board**" of the **Workers' Compensation Act, 2013**

Medical professionals are admitting to our members that they are receiving pressure from WCB representative's indicating that their allotted timeline of therapy for the injury is done. Again, these comments pressures our members into believing that they are not working hard enough and not allowing

them continued access to medical professional that are still required, as per the medical professional's request. 19.1 This violated section 19.1 "**Duties of the Board**" of the **Workers' Compensation Act, 2013**

WCB representatives rely on information from employers representative that focused on pre-existing medical conditions, this violated section 49 "**Pre-existing conditions**" of the **Workers' Compensation Act, 2013**

Our members have documented WCB files in which employers E 1's are stating in question 10, "Yes, Employer does have reason to believe that this is not a work related incident?" In most cases, the reason cited by employer is a pre-existing medical condition.

When our members see medical professionals, they are questioned on their "pre-existing medical condition" which in many cases does not exist. This information was relayed to member's medical professionals either by the WCB representative communicating directly with the medical professionals or our employers representative communicating with our member's medical professionals. These conversations would end if our members WCB representatives do not share our members private medical information with our employers representative, as our employer would not have the ability to directly contact our members medical professionals

Needless to say, if you look hard enough, anyone can find a "pre-existing condition" and decide to focus on "pre-existing condition" as a cause of injury instead of simply dealing with the fact that our members were well enough to attend work and injured themselves at work on that day. Either way the comments are not appropriate as they violate section 49 "**Pre-existing conditions**" of the **Workers' Compensation Act, 2013**

When WCB representative's focus on either timelines of injuries or pre-existing conditions, this allows a loop hole for WCB representative to frustrate our members by not dealing with the issue at hand, that being the injury. In many cases, secondary issues arise from the initial injury which is often not addressed or not considered by WCB representatives as their focus is only bases on a very narrow view of the initial injury or the pre-existing injury. That is why; many of our members who go through the WCB process once will often not report any other injuries as they would prefer to address other injuries that require time losses through other leaves available in our collective agreement. These leaves include sick leave, leave without pay, EI sick benefits, and LTD benefits.

**For all of these service delivery comments our local simply recommends for the WCB Committee of Review to request for WCB to follow their own Vision, Mission and Act.**

### **Prevention**

As previously stated, from the Saskatchewan WCB 2014 Annual Report, the class of Elementary & Secondary Education is higher than the all class average for both Workers Injured and workers injured with time loss. WCB is responsible for injury prevention. Injury prevention programs are available to our members on line. Our local knows about these on line courses because we've requested workshop from our employer. The fact that our members do not know about these courses and our employer is not encouraging our members to take these courses is a missed opportunity. **Our local recommends for WCB provided training in a format that is not on line. We further recommend for WCB to facilitate**

**the preventative health and safety training to our members.** By implementing both recommendations we may be able to correct the “belief” that our workplace health and safety is not to be discussed in public and should only be worked on a computer and in seclusion. Implementing both recommendations may allow our employer to take notice that our members returned to work meetings are serious situation instead of our employer handing out “Mission Zero” mints at these meetings.

Our members report begged their WCB representative to request inspections of a school site in which several health issues were reported. The WCB representative did not request an investigation. Again, this information is documented from our members WCB files. Our employer holds the balance of power in our workplace and they are the ones who are legally responsible for our member’s health and safety. However, it has been demonstrated to our local the WCB representatives are listening to our employer’s verbal discussions without evidence to prove what the employer has stated is correct and in turn ignoring our member’s evidence of needed inspections. This is a violation of section 127 (2) (a) **“Inspections”** of the **Workers’ Compensation Act, 2013**. **Our local recommends mandatory site inspections when more than one WCB claim from same work site is filed claiming similar root causes for injuries.**

### **Structure and Governance**

Given the back log of WCB appeal cases, **our local recommends increasing the Board from the current three full time members to five full time members, with equal representation appointed by labour and employers.** Board members must make fair and evidence based decisions on WCB appeals. These decisions cannot be rushed resulting in a negative cost to our injured workers and cost saving for WCB who returned these cost savings to employers.

Furthermore, **our local recommends creating an advisory committee of five full time stakeholders with equal representation appointed by labour and employers.** The purpose of the stakeholder committee would be to review current policies, legislation, budgeting and surpluses. This committee would monitor the Board’s governance and advise the board directly. This would increase the Board’s accountability and governance.

CUPE Local 3766 fully supports our members as the WCB process is often confusing. We support the Workers’ Compensation Boards Vision, Mission and Act 2013. On November 16<sup>th</sup> you heard a lot of serious service delivery issues from WCB representatives, for those concerns, we are simply recommending for the WCB Committee of Review to request for WCB to follow their own Vision, Mission and Act. As this was our locals first appearing at the Workers’ Compensation Boards Committee of Review process, this project has taken on a life of its own. We wished to have our member’s issues to be the focus of that presentation. Thank you for allowing CUPE Local 3766 an extra day extension and allowing us to present a written submission to the Committee of Review. We believe CUPE Local 3766 recommendations on service delivery, prevention, structure and governance will support our 550 member’s needs to decrease injury rates and have a true mission zero.

Thank you



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